

## WATER COUNCIL MEETING

Dept. of Environmental Services  
6 Hazen Dr., Concord, N.H.

March 12, 2003  
9:00 a.m.

Members present: Councilors Bridges, Bradley, Butler, Cowan, DiMarzio, Funk, Kibbey, Varotsis, McLeod, and his designee, Johanna Lyons, and the Office of State Planning designee, Ben Frost.

Members absent: Councilors Densberger and Patenaude, Councilor Bartlett or his designee, Randy Curtis; Councilor Flynn or his designee, David Barrett; and Councilor Vailas or his designee, Brook Dupee.

Vacancies: Appointee representing agricultural interests.

Chairman Bridges opened the meeting and the following items received consideration:

(1) **Approval of Minutes of February 12, 2003 Meeting**

*A motion was made by Councilor Bradley to accept the minutes of the February 12, 2003 meeting. Councilor Butler seconded the motion and the vote was unanimous.*

(2) **Approval of State Grants**

Stephen Snell, Wastewater Engineering Bureau, presented a list of municipal projects to receive state aid as set forth in John Bush's memorandum of February 21, 2003 and recommended Council approval of processing for such payments.

*Councilor Varotsis moved to approve the grants and recommend favorable action by the Governor and Executive Council by adoption of the following resolution in its entirety. Councilor Cowan seconded the motion and the vote was unanimous.*

WHEREAS The following municipalities have applied to the Department of Environmental Services, under the provisions of RSA 486, for grants in the amounts listed to aid in the defraying of the costs resulting from the construction of sewage disposal facilities, as defined in said Chapter:

<u>MUNICIPALITY</u>	<u>PROJ.#.</u>	<u>PROJECT DESCRIPTION</u>	<u>AMOUNT</u>
Wolfeboro	C-641	Spray Irrigation Syst. Access Improvements, Phase I	\$ 2,280
WRBP*	C-642	Upgrade of Pumping Stations	20,450
WRBP*	C-643	Instrumentation Upgrade, Phase IV	7,674
WRBP*	C-644	Ultraviolet Disinfection System UPS and Electrical Room Improvements	12,002
WRBP*	C-645	Laconia Compound Improvements, Phase I	9,272
WRBP*	C-646	Capital Improvements Plan (Laconia Compound)	5,335
WRBP*	C-647	Infiltration/Inflow Studies	4,736
WRBP*	C-648	Paugus Park Pump Station Electrical Upg.	2,699
WRBP*	C-649	Aeration Tank #3 Upgrade	8,400
Nashua	C-650	Emergency Generators	279,790
Manchester	C-651	South Mammoth Road Sewers, Phase II	79,974

\*Winnepesaukee River Basis Program

WHEREAS, The Department of Environmental Services has examined said applications as to the eligibility of the construction costs for State contributions; and

WHEREAS, The Water Council finds that said projects are intended to control or reduce pollution in the surface waters of the State, as defined in RSA 485-A;

NOW THEREFORE, The Water Council finds that all of the provisions of RSA 486 have been met by said applicants, and respectfully recommends that the Governor and Executive Council approve said grants and authorize payment thereof through the Department of Environmental Services, as provided for in said Chapter.

Councilor Kibbey expressed a concern that the treatment plants are not in compliance with the law which requires municipalities to provide access to an approved septage disposal facility and requested that this matter be scheduled for discussion at the Council's May meeting. He also requested that review of septage fees be put on the agenda. Councilor Butler noted that there are municipality capacity issues which also should be considered by the Council.

**(3) Status of Appeals**

Appeals Clerk Michael Sclafani presented a status report of appeals.

- a. Docket No. 01-13 WC, Appeal of Lake Ashuelot Estates Association  
On 2/24 a letter was received from Donald Damm, President of LAE, advising that LAE is no longer represented by counsel and all future correspondence should be directed to Mr. Damm. A written decision is in draft form. The AGO is awaiting additional information from the Council to finalize the decision.
- b. Docket No. 01-20 WC, Appeal of John Dixon, Sunapee  
A written decision granting the appeal was issued on January 24, 2003. On February 24, 2003 an Appearance and a Motion for Reconsideration or Rehearing and Request for Clarification was filed by Attorney Richard Head on behalf of DES. Also on February 24, a Motion for Rehearing was filed by Attorney William Pandolph on behalf of the Town of Sunapee. On February 27, an Assented to Motion for Extension of Time or Waiver of Rule was filed by Attorney James Shirley on behalf of the Appellant requesting 5 additional days in order to respond to the motions filed by Attorneys Head and Pandolph. Vice Chairman DiMarzio granted the Assented to Motion for Extension of Time or Waiver of Rule by order of March 3, 2003 extending the time for response by the Appellant to March 6, 2003. Appellant's Objection to Town of Sunapee Water and

Sewer Commission's Motion for Rehearing and an Objection to Department of Environmental Services' Motion for Reconsideration or Rehearing, and Request for Clarification was filed on March 6, 2003.

Since Vice Chairman DiMarzio presided at the hearing, Chairman Bridges turned the meeting over to Vice Chairman DiMarzio.

After deliberations, the following actions were taken:

***A motion was made, seconded and carried that the Motion for Reconsideration or Rehearing filed by Attorney Head on behalf of DES be denied.***

***A motion was made, seconded and carried that the Motion for Rehearing filed by Attorney Pandolph on behalf of the Town of Sunapee be denied.***

Vice Chairman DiMarzio turned the meeting back to Chairman Bridges.

- c. Docket No. 02-09 WC, Appeal of Town of Springfield  
The appeal hearing has been rescheduled for April 9, 2003 at 10:00 a.m. Vice Chairman DiMarzio commented that settlement discussions are in progress.
- d. Docket No. 02-14 WC, Appeal of Randall Parker  
The Council voted at the February 12 meeting to dismiss this appeal as untimely filed and a Decision & Order was sent to the parties on February 13, 2003. The 30-day window for filing a request for reconsideration or rehearing falls on Saturday, March 15 and, therefore, the date has been extended to Monday, March 17. As of this date, no filings have been received.

**(4) Discussion of Septage Rules, Env-Ws 1600**

Richard Flanders, Wastewater Engineering Bureau, discussed with the Council changes to the proposed septage rules, specifically Env-Ws 1607.01 and 1607.03 which would provide an exception excluding wastewater in the holding tanks of recreational vehicles and trailered boats from the permit requirements. These changes address the concerns of the Council expressed at the February meeting.

Councilor Kibby introduced Darlene Johnson, President of the New Hampshire Association of Septage Haulers, to the Council. Ms. Johnson distributed a letter to the Council members expressing the following Association concerns with Env-Ws 1600 – Septage Management rules:

Ambient Groundwater Quality The rules currently allow no degradation of water quality, even within the permitted groundwater discharge zone. The Association's position is that this is too restrictive.

Mr. Flanders advised that this issue has not been addressed by the Septage Task Force subcommittee. This is a sludge rule that was intended for lined lagoon facilities and was brought forward as part of the septage rules regulating unlined facilities. Harry Stewart, Director of the Water Division, Sarah Pillsbury of the Water Supply Engineering Bureau, and Mr. Flanders will be meeting to discuss implementation of compliance boundaries and groundwater monitoring at existing septage facilities. Many facilities have groundwater discharge permits that will expire within the next two years after which DES will be transitioning to the issuance of a single permit under the sludge and septage program which will incorporate the groundwater quality rules.

Setbacks The Association is concerned that the setbacks are not based on scientific information.

Mr. Flanders agreed that additional groundwater monitoring wells are needed at all facilities in order to develop scientifically sound data for determining variable setbacks.

Grandfathering The Association believes the proposed change in regulations would impose a hardship on renewing permits for lagoon sites.

Mr. Flanders responded that DES will try to provide for grandfathering as long as there are no existing violations of groundwater standards. Councilor Cowan asked for clarification on which bureau would be permitting unlined lagoons. Mr. Stewart advised that it would be a single septage permit with groundwater components.

Holding Tank Permits The Association is concerned that a permit may be required each time the contents of a septage pumping truck are transferred to a larger tanker for transportation to a disposal facility.

Mr. Flanders advised that the problem is not with a single company which owns a fleet of feeder trucks coming to a central location, but with multiple companies using a single transfer station. A permit-by-notification process for this situation has been discussed in the past.

Mr. Flanders reviewed the status of HB 503, SB 87, SB 88, and SB 89 with the Council.

(5) **Discussion of Proposed Underground Injection Control Rules, Env-Ws 384**

Sarah Pillsbury, Water Supply Engineering Bureau, reviewed the proposed Env-Ws 384 rules relative to the underground injection control program with the Council. The proposal would adopt the federal rules by reference. The UIC Program has been in force since the early 80s. In 2002 changes were made to those rules to ban large capacity cesspools and discharges into groundwater at motor vehicle facilities, and allow re-injection of groundwater that contains waste if it is part of a waste site cleanup. The choice for DES was to either adopt federal rules by reference or change the current four sets of rules that are well understood by the regulated community and, in fact, have been achieving the program's goal for the last 10 years. It was decided that the least disruptive option was adoption of the federal rules by reference. Councilor Kibbey asked what materials are allowed under the UIC rules. Ms. Pillsbury stated that in addition to domestic wastewater, other discharges allowed are noncontact cooling water, roof drainage, and stormwater.

(6) **Legislation Update**

Russ Nylander, Chief Engineer, reported on legislation being tracked by the Water Division.

(7) **Other Business**

There was no further business to come before the Council.

(8) **Next Meeting**

April 9, 2003

(9) **Adjournment**

There being no further business, the meeting adjourned at approximately 10:45 a.m.